



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

November 10, 2011

Mr. Robert Wilkins
4106 Cottage Lane
Annandale, Virginia 22003

Re: 3404 Hockett Street
Tax Map 60-1 ((1)) 58A
Zoning District: R-4
SE 2009-MA-026

Dear Mr. Wilkins:

This is in response to your letter dated August 17, 2011, in which you request a determination as to whether you could restore the single family dwelling at the above-referenced address to the condition that was originally proposed in conjunction with Building Permit #03044B0320 approved on February 19, 2003, and whether this can be done without special exception approval for uses in a floodplain. The entire property is located within a floodplain and Resource Protection Area (RPA). On June 21, 2011, the Board of Supervisors approved Special Exception SE 2009-MA-026 along with the RPA Encroachment Exception Request and Water Quality Impact Assessment (WQIA), subject to certain development conditions, in the name of Gossom Limited Partnership I, RLLLP, of which you are the General Partner. In accordance with Par. 2 of Sect. 2-902 of the Zoning Ordinance, the Director of the Department of Public Works and Environmental Services (DPWES) is responsible for the administration of the floodplain regulations and for reviewing all proposed uses to determine whether the land on which the proposed use is located is in a floodplain, and if located in a floodplain whether such use may be permitted by right in accordance with the provisions of Sect. 2-903 of the Zoning Ordinance or requires approval of a special exception as set forth in Sect. 2-904 of the Zoning Ordinance. Therefore this response, has been coordinated with Michelle Brickner, Director, Land Development Services, DPWES, and who serves as the Building Official for Fairfax County.

The 2003 Building Permit to construct a second story addition on the then existing 50' X 26' one story dwelling with no associated land disturbance was approved without the benefit of the review required pursuant to Par. 2 of Sect. 2-902. As you are aware, the addition that was constructed by a previous owner of the property was not in accordance with the Building Permit. As I understand your request, you are asking whether the removal of portions of the existing structure, such that the dwelling would be restored to the size and extent as depicted on the 2003 Building Permit and associated plat would qualify as a permitted by right use in the floodplain in accordance with Par. 8 of Sect. 2-903 of the Zoning Ordinance and would obviate the need for the special exception recently approved by the Board for the property. Given that the structure

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as it exists today has been modified to such an extent from that which was proposed under the 2003 Building Permit, the feasibility of restoring the structure appears highly questionable. However, at a minimum, the submission of a grading plan and building plans detailing your proposed scope of work would need to be submitted for review to DPWES pursuant to Par. 2 of Sect. 2-902 in order to assess your request. It is noted that given the amount of disturbance that has already occurred on the property which has already necessitated the approval of a special exception, any further disturbance would in all likelihood also require special exception approval.

As noted in the Clerk to the Board's letter dated June 22, 2011, the special exception shall automatically expire, without notice, 24 months after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted as evidenced by the issuance of a residential use permit. It is my understanding that on October 20, 2011, the dwelling received final inspection approval in compliance with a number of development conditions set forth in the approval, which in this case serves as the residential use permit. Therefore, it is my determination that SE 2009-MA-026 for Uses in a Floodplain has been established. However, establishment of the use does not relieve you or subsequent owners from compliance with the remainder of the development conditions set forth in SE 2009-MA-026, including, but not limited to, Conditions #16, 26, 27 and #30, and the conditions approved in conjunction with the RPA Exception #25172-WRPA-001-2 and the WQIA #25172-WQ-001-4. Failure to diligently pursue compliance with the outstanding conditions within the 24 month time frame set forth in the approval would constitute a violation of the special exception approval and the property owner would be subject to enforcement action as the special exception is granted for and runs with the land subject to the special exception.

While this may not be exactly the answer you were looking for, I trust it is dispositive of your request.

Sincerely,



Eileen M. McLane
Zoning Administrator

Cc: Penelope Gross, Supervisor, Mason District
Michelle Brickner, Director, Land Development Services, DPWES
Barbara C. Berlin, Director, Zoning Evaluation Division, DPZ ✓
Leslie B. Johnson, Senior Deputy Zoning Administrator, DPZ
Elisabeth "Betsy" Smith, Director, Site Development and Inspection Division, DPWES
Jeremiah Stonefield, Chief, Geotechnical & Storm Drainage Section, LDS, DPWES
Kris Abrahamson, Chief, Rezoning and Special Exception Branch, ZED, DPZ